



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 15, 2000

Milton Datsopoulos, Esquire
201 W. Main Street #201
Missoula, Montana 59802-4326

Re: MUR 5029
MSE Technology Applications, Inc.

Dear Mr. Datasopoulos:

This matter was referred to the Federal Election Commission by the *United States Department of Justice*. Pursuant to the plea agreement entered into by your client, MSE Technology Applications, Inc., it has agreed to submit to the Federal Election Commission's jurisdiction with regard to certain illegal campaign contributions made in 1998. Under the terms of the plea agreement, your client has agreed to pay a \$19,500 civil penalty to the Federal Election Commission in connection with the violations.

Based upon the information contained in the plea agreement and referral, on June 9, 2000, the Federal Election Commission found that there is reason to believe MSE Technology Applications, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441c, and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a copy of the General Counsel's Factual and Legal Analysis which formed a basis for the Commission's findings.

In order to expedite the resolution of this matter, enclosed is a conciliation agreement offered in settlement of this matter prior to a finding of probable cause to believe. You should respond to this notification within ten days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

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For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura Callaway, Special Assistant, at 202-694-1650.

Sincerely,

A handwritten signature in cursive script, reading "Darryl R. Wold".

Darryl R. Wold
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Conciliation Agreement

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: MSE Technology Applications, Inc.

MUR: 5029

On May 4, 2000, this Office received a referral from the Department of Justice involving MSE Technology Applications, Inc. ("MSE"), a defendant in a criminal case in the District of Montana involving violations of the Federal Election Campaign Act of 1971, as amended ("FECA"). Included with the referral was a check payable to the Federal Election Commission in the amount of \$19,500. According to the referral, the check was tendered to the Department of Justice as a consequence of a global plea agreement through which the defendant seeks to satisfy simultaneously its criminal and administrative liability for knowingly and willfully violating the FECA. The referral states that MSE has paid a criminal fine of \$97,500 and been sentenced to two years of probation, during which time MSE's principal officers will implement an internal corporate program to prevent future violations of the FECA, as well as perform 200 hours of community service by lecturing on the requirements and prohibitions of the FECA.

The plea agreement states that MSE pleads guilty to one count of violating 2 U.S.C. §§ 441b(a) and 441f by "unlawfully causing the name of a person to be used in connection with the making of a campaign contribution." According to the plea agreement, MSE admits that its conduct constituted a knowing and willful violation of 2 U.S.C. §§ 441b(a) and 441f, recognizes that the FEC has exclusive authority to seek civil remedies for those violations pursuant to 2 U.S.C. § 437g(a)(5). The agreement also states that MSE recognizes that the Department of Justice lacks authority under FECA to bind or otherwise limit the FEC in the imposition of administrative and civil penalties for offenses arising under FECA. Under the terms of the agreement, MSE agrees to submit to the FEC's jurisdiction, to cooperate with the FEC in its compliance proceedings, including waiving FEC notification procedures to which it may be entitled, all evidentiary privileges, and any statute of limitations which may be applicable to the FEC proceedings, and to enter into a conciliation agreement with the FEC and to pay whatever civil penalty the FEC deems appropriate pursuant to 2 U.S.C. § 437g(a)(5).

According to the referral, in late July or early August 1998, Donald R. Peoples, the President and Chief Executive Officer of MSE, was notified that Senator Christopher "Kit" Bond of Missouri would be traveling in the northwest in August 1998. Senator Bond was running for reelection at this time. Representatives of MSE thought Senator Bond should be invited to Butte to visit its facilities. Senator Bond made a commitment to visit Butte and MSE in August 1998. At some point soon thereafter, Donald Peoples announced Senator Bond's upcoming visit at the monthly executive staff meeting. At the meeting, it was determined that "community incentive awards" should be distributed to 13 MSE executives. Payments of \$750 were distributed to 13 MSE employees on August 6, 1998. MSE had distributed "community incentive

awards" to a comparable group of executive employees in 1995 and 1998, although the amounts in those years were less than half the amounts awarded in August 1998.

At approximately the same time, Donald Peoples sent an invitation to individuals in the Butte area, including the recipients of the community incentive awards, to attend a luncheon with Senator Bond. The invitation suggested \$500 to \$1,000 as the appropriate range for contributions to the Bond reelection campaign. Based upon encouragement from MSE officials, 12 of the 13 MSE employees who had received the \$750 awards contributed \$750 to the Missourians for Kit Bond campaign committee in August 1998, except for one who donated \$1,000. As a result of MSE's conduct, the Missourians for Kit Bond campaign unwittingly and incorrectly reported as individual contributions what where in fact \$9,750 in corporate contributions funneled through conduits. The plea agreement states that "such conduct on the part of the Defendant MSE constitutes a knowing and willful violation of FECA."

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another person.

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for a corporation to make a contribution or an expenditure in connection with any federal election and for any officer or director of any corporation to consent to any contribution or expenditure by the corporation prohibited by this section.

Pursuant to 2 U.S.C. § 441c, it is unlawful for any person who enters into any contract with the United States or any department or agency thereof either for rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for the latter of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use.

In light of the facts contained in the referral, and the fact that MSE is a government contractor,¹ there is reason to believe that MSE Technology Applications, Inc. knowingly and willfully violated 2 U.S.C. §§ 441f, 441b(a) and 441c by making corporate contributions in the name of others to Missourians for Kit Bond, a federal political committee.

¹ In its response to closed MUR 4864, MSE stated that it is a government contractor within the meaning of 2 U.S.C. § 441c.